

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-186907

DATE: August 3, 1976

MATTER OF: D.M. Anderson Co.

DIGEST:

Protester's late bid properly was rejected by agency notwithstanding that protester was advised by Postal Service one day prior to bid opening that use of "express mail" would allow delivery at agency prior to deadline, in absence of showing that bid was mishandled by agency after its receipt.

D.M. Anderson Co. (Anderson) has protested the rejection of its bid under invitation for bids (IFB) No. SCS-3-AZ-76 issued by the Department of Agriculture, Soil Conservation Office, Phoenix, Arizona (SCS).

Anderson mailed its bid by "express mail" from Idaho Falls, Idaho on June 30, 1976, after being advised by the Postal Service there that by so doing its bid would reach Phoenix, Arizona, in time for delivery to SCS prior to the scheduled bid opening time of 2:00 p.m., local time, July 1, 1976. However, Anderson's bid was not delivered to SCS until 4:03 p.m. on July 1st, after bids for the subject IFB had been opened. Thereafter, by letter dated July 6, 1976, SCS notified Anderson that since its bid had been received after the time for opening specified in the IFB it could not be considered for award.

Anderson contends that it submitted the low bid and as such is entitled to award. Anderson also asserts that in the circumstances of this case its bid, although received by SCS subsequent to bid opening, should not have been rejected. In this regard Anderson notes that lateness was attributable to the Postal Service which had guaranteed timely delivery to SCS. In addition, Anderson indicates that "express mail" should qualify as a standard of bid transmittal and that since delivery is guaranteed under "express mail" it is superior to registered or certified mail.


It is our view that Anderson's bid was properly rejected by SCS. While it may well be that delivery should have been made prior to the deadline for receipt of bids, nevertheless the bid was not received at SCS until after bid opening. The fact that Anderson's bid was sent by "express mail", or that delivery in

in such manner is guaranteed, did not remove from Anderson its obligation to assure timely arrival of its bid. Our Office has consistently held that the bidder has the responsibility to assure timely arrival of its bid for a scheduled bid opening and must bear the responsibility of the late arrival of a bid or a modification. Late receipt of a bid will result in its rejection unless the specific conditions set forth in the IFB are met. B.E. Wilson Contracting Corp., 55 Comp. Gen. 220 (1975), 75-2 CPD 145, and cases cited therein.

Federal Procurement Regulations § 1-2.201(31) (amend. 153 1964 ed.) which was incorporated into the IFB as Clause 24 of the Solicitation Instructions and Conditions, permits the consideration of mailed bids received late only if they were sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids. Bids sent by registered or certified mail in less than that time, or sent by any other form of mail, may be considered only if it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation. In this connection, we have held that "Government installation" refers to the procuring agency's local office and not to the post office serving that agency. The Hoedads, B-185919, July 8, 1976, 76-2 CPD ____.

Since Anderson's bid was sent by other than registered or certified mail it may be considered only if mishandling by the agency is shown. In the absence of any allegation by Anderson that the agency mishandled its bid, the contracting officer lacked authority to consider the bid which properly was rejected as late.

In view of the foregoing, the protest is denied.


Deputy Comptroller General
of the United States